

FEB 04 2005

**FEDERAL ELECTION COMMISSION**  
999 E Street, N.W.  
Washington, D.C. 20463

SECRET

2005 FEB -4 P 4: 52

**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

**MUR 5511**

DATE COMPLAINT FILED: August 10, 2004  
DATE OF NOTIFICATION: August 17, 2004  
DATE ACTIVATED: October 20, 2004  
[ ] [ ]  
[ ] [ ]  
EXPIRATION OF STATUTE OF LIMITATIONS: August 5, 2009

**COMPLAINANTS:**

Democracy 21, Campaign Legal Center, and Center for Responsive Politics

**RESPONDENTS:**

Swift Boat Vets and POWs for Truth and Weymouth Symmes

**MUR 5525**

DATE COMPLAINT FILED: August 30, 2004  
DATE OF NOTIFICATION: September 7, 2004  
DATE ACTIVATED: October 20, 2004  
[ ] [ ]  
[ ] [ ]  
EXPIRATION OF STATUTE OF LIMITATIONS: August 5, 2009

**COMPLAINANT:**

Kerry-Edwards 2004

**RESPONDENTS:**

Swift Boat Vets and POWs for Truth  
Bush-Cheney '04, Inc. and David Herndon, in his official capacity as treasurer  
Alachua County Republican Party  
Republican National Committee and Mike Retzner, in his official capacity as treasurer  
George W. Bush, Dick Cheney, and Karl Rove

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Kenneth Cordier; Harlan Crow; William Franke; Roy Hoffman; Alvin Horne; Bill Lannom; John O'Neil; Bob Perry; Charles Plumly; Merrie Spaeth; and Weymouth Symmes

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**MURs 5511 and 5525**

**RELEVANT STATUTES AND REGULATIONS:**

2 U.S.C. § 431(4)(A)

2 U.S.C. § 433

2 U.S.C. § 434

2 U.S.C. § 441a

2 U.S.C. § 441b

11 C.F.R. § 109.21

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**FEDERAL AGENCIES CHECKED:**

Internal Revenue Service

**I. INTRODUCTION**

The complaints in these matters allege that Swift Boat Vets and POWs for Truth ("Swift Boat Vets"), an entity organized under Section 527 of the Internal Revenue Code, spent millions of dollars, raised outside the limitations and prohibitions of the Federal Election Campaign Act of 1971, as amended, (the "Act") to influence the recent presidential election.<sup>1</sup> The complaints also allege that Swift Boat Vets failed to properly report its activities to the Commission and that it coordinated its activities with President Bush's principal campaign committee, Bush-Cheney '04, and with the Republican National Committee.

In response to the complaints, Swift Boat Vets denies that it is a political committee under the Act, denies that any of its communications contained express advocacy, and denies

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<sup>1</sup> The Commission has received one other complaint where Swift Boat Vets is a respondent, MUR 5565, which involves issues distinct from the ones discussed in this Report. A General Counsel's Report in that matter is being circulated simultaneously with this Report.

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1 coordinating any expenditures with any outside organization or individual. Similarly, Bush-  
2 Cheney '04 and the Republican National Committee also deny coordinating expenditures or  
3 activities with Swift Boat Vets. All other respondents, which include officers and consultants of  
4 Swift Boat Vets, as well as donors to the organization, have likewise denied violating the Act.

5 The allegations in these matters are similar to the allegations made against the Section  
6 527 organizations at issue in MURs 5403, 5427, 5440, and 5466 (America Coming Together,  
7 *et.al.*) and MUR 5487 (Progress for America Voter Fund). Accordingly, this Report examines  
8 the potential violations of Swift Boat Vets in a manner similar to the analysis set forth in those  
9 MURs. Based on available information discussed below, this Office recommends that the  
10 Commission find reason to believe that Swift Boat Vets and Bush-Cheney '04 violated the Act

## 12 II. FACTUAL AND LEGAL ANALYSIS

### 13 A. Factual Background

14 Swift Boat Vets, a Section 527 organization established on April 23, 2004, has not  
15 registered as a political committee with the Commission, nor is it associated with any registered  
16 political committee. Swift Boat Vets funded its activities with nonfederal funds raised outside  
17 the limitations and prohibitions of the Act. In its IRS disclosure reports, Swift Boat Vets  
18 reported receipts of \$18,715,390 and disbursements of \$22,565,360 during the 2004 calendar  
19 year.<sup>2</sup> In its electioneering communications reports filed with the Commission, Swift Boat Vets  
20 reported \$20,941,845 in donations for communications that cost \$18,813,850. Several

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<sup>2</sup>The discrepancy between receipts and disbursements may be due to IRS disclosure thresholds. The Internal Revenue Code provides for the disclosure of donations to Section 527 organizations by donors who give an aggregate of \$200 or more to the organization during a calendar year and does not require the disclosure of total donations. See 26 U.S.C. § 527(j)(3)(B).

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1 individuals have given in excess of \$1 million to Swift Boat Vets, which also accepts corporate  
2 funds in a separate account.

3         Swift Boat Vets' activities and public statements have been exclusively geared toward  
4 criticizing John Kerry during his presidential campaign. *See* Factual Appendix. For example, at  
5 the press conference announcing the formation of Swift Boat Vets, its leaders touted a letter  
6 signed by Vietnam veterans "challenging [Kerry's] fitness to serve as commander-in-chief of  
7 America's armed forces." Appendix at 1. Likewise, Swift Boat Vets' website shows a picture of  
8 Kerry that states, "of the 19 veterans pictured with Kerry, only THREE actually support him for  
9 president. 12 now state that Kerry is 'UNFIT to be Commander-in-Chief.'" (emphasis original).  
10 In addition, leaders of Swift Boat Vets have explicitly stated that the organization's goal was to  
11 defeat John Kerry for President, according to media reports. *See id.* For example, after the  
12 election, Roy Hoffman, chairman of Swift Boat Vets, reportedly stated, "We feel that our  
13 primary mission has been accomplished," and "I don't think there is any doubt that we  
14 succeeded." Appendix at 2.

15         Swift Boat Vets has also produced nine television advertisements, all of which identify  
16 and attack John Kerry. *See* Appendix at pp. 3-12 (scripts of television advertisements). Some of  
17 these advertisements also include footage of Kerry's running mate, John Edwards, such as the  
18 following advertisement:

19                                 **"Why?"** (Released on October 13, 2004)

<b>JOHN EDWARDS</b> [from speech used in Kerry's "Three Minutes" ad]: If you have any questions about what John Kerry's made of...	<i>Footage of a speech by John Edwards. Text: Questions?</i>
<b>VAN ODELL</b> : Why do so many of us have serious questions?	<i>Footage of an interview with Van Odell. Text: Van Odell; Gunners Mate, Coastal Div. 11.</i>
<b>LOUIS LETSON</b> : How did you get your purple heart when your commanding officer didn't	<i>Footage of an interview with Louis Letson. Text: Dr. Louis Letson, Medical Officer</i>

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approve it?	
<b>STEVE GARDNER:</b> Why have you repeatedly claimed you were illegally sent into Cambodia...	<i>Footage of an interview with Steve Gardner. Text: Steve Gardner, PCF-44, John Kerry's Boat.</i>
<b>BOB ELDER:</b> ... when it's been proven that you were not?	<i>Footage of an interview with Bob Elder. Text: Bob Elder; OIC, Coastal Div. 11.</i>
<b>JIM WERNER:</b> How could you accuse us of being war criminals...	<i>Footage of an interview with Jim Werner. Text: Jim Werner; Former POW.</i>
<b>KEN CORDIER</b> ... and secretly meet with the enemy in Paris...	<i>Footage of an interview with Ken Cordier. Text: Ken Cordier; Former POW.</i>
<b>MIKE SOLHAUG:</b> ... and promote the enemy's position back home...	<i>Footage of an interview with Mike Solhaug. Text: Mike Solhaug; OIC, PCF 57.</i>
<b>PAUL GALANTI:</b> ... when I was a POW, and Americans were being killed in combat.	<i>Footage of an interview with Paul Galanti. Text: Paul Galanti; Former POW.</i>
<b>BUD DAY:</b> How can you expect our sons and daughters to follow you, when you condemned their fathers and grandfathers?	<i>Footage of an interview with Bud Day. Text: Bud Day; Former POW, Medal of Honor Recipient.</i>
<b>JOE PONDER:</b> Why is this relevant?	<i>Footage of an interview with Joe Ponder. Text: Joe Ponder; Gunners Mate, Coastal Div. 11.</i>
<b>TOM HANTON:</b> Because character and honesty matter. Especially in time of war.	<i>Footage of an interview with Tom Hanton. Text: Tom Hanton; Former POW.</i>
<b>ROY HOFFMAN:</b> John Kerry cannot be trusted.	<i>Footage of an interview with Roy Hoffman. Text: Rear Admiral Roy Hoffman; Commander Task Force 115.</i>
<b>ANNOUNCER [v/o]:</b> Swift Vets and POWs for Truth are responsible for the content of this advertisement.	<i>Text: Paid For By Swift Boat Veterans For Truth And Not Authorized By Any Candidate Or Candidate's Committee. www.SwiftVets.com. Swift Boat Veterans For Truth Is Responsible For The Content Of This Advertisement.)</i>

1 The complaint in MUR 5525 also notes various reported connections between persons  
2 associated with Swift Boat Vets and persons associated with the Republican Party and/or  
3 President Bush's reelection campaign. Most prominent is Kenneth Cordier, a retired Air Force  
4 colonel who served as a member of the Bush-Cheney '04 Veterans National Steering Committee.  
5 In June 2004, Cordier gave a speech to the Veterans of Foreign Wars on behalf of Bush-Cheney  
6 '04. Soon after giving that speech, Cordier was recruited by Swift Boat Vets to become a

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1 member of that organization. In August, Cordier appeared in one of Swift Boat Vets' television  
2 advertisements. After Cordier informed Bush-Cheney '04 of his involvement with Swift Boat  
3 Vets, Bush-Cheney '04 relieved him of his position as a member of the Veterans Steering  
4 Committee.<sup>3</sup> Cordier has stated to the media that the crossover between his time with Bush-  
5 Cheney '04 and with Swift Boat Vets was inadvertent and that his involvement with Swift Boat  
6 Vets was independent of his activities with Bush-Cheney '04.

7 The complaint in MUR 5525 also alleges that Swift Boat Vets and Bush-Cheney '04  
8 sponsored a joint rally in Alachua, Florida, though both organizations have denied playing any  
9 role in the event. The complaint also states that many donors to Swift Boat Vets have also  
10 donated to President Bush's campaign or to the Republican Party. For example, Bob Perry, who  
11 gave \$6,000,000 to Swift Boat Vets, has also given millions of dollars to Republican candidates  
12 and committees. Perry is also a longtime political associate and friend of Karl Rove, Bush's  
13 chief political strategist.

14 **B. Political Committee Status**

15 Because Swift Boat Vets' public statements and television advertisements focus on  
16 influencing the 2004 presidential election, the organization may be a political committee subject  
17 to the contribution limitations, source prohibitions, and reporting requirements of the Act. See  
18 2 U.S.C. §§ 431(4)(A), 433, 434, 441a, and 441b. The Act defines a "political committee" as  
19 any committee, club, association, or other group of persons that receives "contributions" or  
20 makes "expenditures" for the purpose of influencing a federal election which aggregate in excess  
21 of \$1,000 during a calendar year. 2 U.S.C. § 431(4)(A). The term "contribution" is defined to  
22 include "any gift, subscription, loan, advance, or deposit of money or anything of value made by

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<sup>3</sup> Bush-Cheney '04 and Swift Boat Vets also shared the same legal counsel, Benjamin Ginsberg, who likewise resigned from Bush-Cheney '04 after his dual role was publicized.

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any person for the purpose of influencing any election for Federal office.” 2 U.S.C. § 431(8)(A)(i). *See, e.g., FEC v. Survival Educ. Fund, Inc.*, 65 F.3d 285, 295 (2d Cir. 1995) (where a statement in a solicitation “leaves no doubt that the funds contributed would be used to advocate [a candidate’s election or] defeat at the polls, not simply to criticize his policies during the election year,” proceeds from that solicitation are contributions).

As a Section 527 organization, Swift Boat Vets is by law “a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.” 26 U.S.C. § 527(e)(1). The “exempt function” of 527 organizations is the “function of influencing or attempting to influence the selection, nomination, election or appointment of any individual to any Federal, State, or local public office or office in a political organization,” or the election or selection of presidential or vice presidential electors. 26 U.S.C. § 527(e)(2). As a factual matter, therefore, an organization that avails itself of 527 status has effectively declared that its primary purpose is influencing elections of one kind or another.

Swift Boat Vets claims in its response to the complaints that it is not a political committee because its purpose is simply “to add to the public debate essential information about John Kerry’s post-Vietnam charges of war crimes and his own Vietnam record.” Yet as detailed in the prior section, Swift Boat Vets’ public statements, television advertisements, and website all go well beyond simply providing information and instead attempt to influence the presidential election. Prominent examples of these efforts to influence the election include television advertisements that reference and rebut Kerry’s campaign ads, a website that explicitly notes

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1 which members "support [Kerry] for president," and public statements that Kerry is "totally unfit  
2 to be the Commander-in-Chief."

3 Overall, publicly available information amply demonstrates that Swift Boat Vets raised  
4 and spent millions of dollars to attack and oppose a single candidate for federal office—John  
5 Kerry—by explicitly challenging his fitness to serve as President of the United States.

6 Accordingly, it is appropriate for the Commission to investigate whether Swift Boat Vets has,  
7 among those millions spent and received, made \$1,000 in "expenditures," or received \$1,000 in  
8 "contributions," and thus is a political committee. If Swift Boat Vets is a political committee,  
9 then it is subject to the contribution limitations, source prohibitions, and reporting requirements  
10 of the Act.<sup>4</sup> See 2 U.S.C. §§ 431(4)(A), 433, 434, 441a, and 441b.

11 Therefore, this Office recommends that the Commission find reason to believe that Swift  
12 Boat Vets violated 2 U.S.C. §§ 433, 434, 441a(f), and 441b(a) by failing to register as a political  
13 committee with the Commission; by failing to report its contributions and expenditures; by  
14 knowingly accepting contributions in excess of \$5,000; and by knowingly accepting corporate  
15 and/or union contributions.

16 **C. Coordinated Communications with Bush-Cheney '04**

17 Publicly available information also supports investigating whether Swift Boat Vets  
18 coordinated expenditures for its television advertisements or other activities with Bush-Cheney  
19 '04. See 11 C.F.R. § 109.21. A communication is coordinated with a candidate, an authorized  
20 committee, a political party committee, or agent thereof if it meets a three-part test: (1) payment

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<sup>4</sup> To address overbreadth concerns, the Supreme Court has held that only organizations whose major purpose is campaign activity can potentially qualify as political committees under the Act. See, e.g., *Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238, 262 (1986). In its responses to the various complaints, Swift Boat Vets does not appear to dispute the complainants' contention that its major purpose is to engage in federal campaign activity.

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1 by a third party; (2) satisfaction of one of four "content" standards;<sup>5</sup> and (3) satisfaction of one of  
2 six "conduct" standards. *See* 11 C.F.R. § 109.21.

3 In this matter, the first prong of the coordinated communication test is satisfied because  
4 Swift Boat Vets is a "person other than [the] candidate, authorized committee, political party  
5 committee, or agent of any of the foregoing" that paid for television advertisements. 11 C.F.R.  
6 § 109.21(a)(1). The second prong of this test, the content standard, is satisfied because Swift  
7 Boat Vets' television advertisements qualify as "public communications" under 11 C.F.R.  
8 § 109.21(c)(4). Neither Swift Boat Vets nor Bush-Cheney '04 disputes that these two prongs are  
9 satisfied. Rather, a finding that Swift Boat Vets engaged in coordinated communications  
10 depends, at this stage, on an analysis of its activities under the "conduct" prong of the  
11 coordinated communication test.

12 The conduct standard is met if the communication is made at the "request or suggestion"  
13 or with the "material involvement" of the candidate, an authorized committee, a political party  
14 committee, or agent thereof; or after "substantial discussion" with the relevant candidate or  
15 committee. 11 C.F.R. § 109.21(d). Regarding "material involvement," the conduct prong is  
16 satisfied if a candidate or his authorized committee is materially involved in decisions regarding  
17 the communication, such as its content, intended audience, means or mode, specific media outlet  
18 used, timing or frequency, or size or prominence. *See* 11 C.F.R. § 109.21(d)(2). Similarly, the  
19 conduct prong is satisfied if a communication is produced after one or more "substantial  
20 discussions" about the communication between the person paying for the communication and an  
21 authorized committee. 11 C.F.R. § 109.21(d)(3). A "substantial discussion" is one in which

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<sup>5</sup> In *Shays v. FEC*, 337 F. Supp. 2d 28 (D.D.C. 2004), *appeal filed*, No. 04-5352 (D.C. Cir. Sept. 28, 2004), the District Court invalidated the content standard of the coordinated communications regulation and remanded it to the Commission for further action consistent with the Court's opinion. In a subsequent ruling, the Court explained that the "deficient rules technically remain 'on the books,'" and did not enjoin enforcement of this (or any other) regulation pending promulgation of a new regulation. *Shays v. FEC*, 340 F. Supp. 2d 39, 41 (D.D.C. 2004).

1 material information about the candidate's campaign plans, projects, activities or needs is  
2 conveyed to a person paying for the communication. *Id.*

3 Here, there is reason to investigate whether Swift Boat Vets coordinated its  
4 communications with Bush-Cheney '04 through Kenneth Cordier. Cordier served as a member  
5 of the Bush-Cheney '04 Veteran's National Steering Committee at the same time as he appeared  
6 in a television advertisement for Swift Boat Vets. Swift Boat Vets and Bush-Cheney '04 shared  
7 the goal of defeating John Kerry, and both organizations concurrently utilized Cordier to focus  
8 on veterans' issues in achieving that goal. Cordier's dual positions thus warrant examining  
9 whether he possessed and conveyed information concerning Bush-Cheney '04's "plans, projects,  
10 activities, or needs" or whether he was materially involved in decisions regarding the content or  
11 other aspects of Swift Boat Vets' television advertisements. *See* 11 C.F.R. § 109.21(d).

12 Although Bush-Cheney '04 claims that Cordier's position was honorary and did not grant  
13 him access to the campaign's strategy, plans, projects, activities, or needs, Bush-Cheney '04 did  
14 not provide any statements from campaign officials or other affirmative evidence to support this  
15 contention. For example, no specific information was provided as to the exact nature of  
16 Cordier's service to Bush-Cheney '04 or as to what information Cordier had access to. Instead,  
17 Bush-Cheney '04 simply asserts that the allegations are "preposterous." Likewise, Swift Boat  
18 Vets summarily denies the coordination allegations. Because the respondents have offered only  
19 conclusory statements about the nature of Cordier's positions, a limited inquiry is appropriate to  
20 determine if their broad and unsworn assertions can be substantiated and confirmed.

21 The complaint in MUR 5525 also contends that coordination can be evidenced by a  
22 campaign rally in Florida focusing on veterans that was allegedly sponsored by both Bush-  
23 Cheney '04 and Swift Boat Vets. The supplement to this complaint attached a flier publicizing

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1 this rally, which states that the event was sponsored by the Alachua Bush-Cheney Committee  
2 and Swift Boat Vets, among other groups. In response, both Bush-Cheney '04 and Swift Boat  
3 Vets have explicitly disavowed their involvement in this event, contending that they did not hold  
4 or even authorize the rally. The Alachua County Republican Party, another apparent co-sponsor  
5 of the event, did not substantively respond to the complaint. As with Cordier's service, a limited  
6 inquiry would be appropriate to verify that this campaign rally was organized by local activists  
7 independent of both Bush-Cheney '04 and Swift Boat Vets.

8 Overall, given the lack of specific information provided by the respondents to counter the  
9 allegations, there is sufficient evidence to investigate whether Swift Boat Vets coordinated its  
10 communications or other expenditures with Bush-Cheney '04. The regulations specify that a  
11 payment for a coordinated communication is made for the purpose of influencing a federal  
12 election, constitutes an in-kind contribution to the candidate or committee with whom or which it  
13 is coordinated, and must be reported as an expenditure made by that candidate or committee. *See*  
14 11 C.F.R. § 109.21(b)(1).

15 Therefore, this Office recommends that the Commission find reason to believe that Swift  
16 Boat Vets violated 2 U.S.C. §§ 441a and 434 by making and failing to report excessive  
17 contributions, in the form of coordinated expenditures, to Bush-Cheney '04. This Office further  
18 recommends that the Commission find reason to believe that Bush-Cheney '04, Inc. and David  
19 Herndon, in his official capacity as treasurer, violated 2 U.S.C. §§ 441a(f) and 434 by accepting  
20 and failing to report excessive in-kind contributions.<sup>6</sup>

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<sup>6</sup> Because Bush-Cheney '04 received public funding for the general election, it may also have made excessive campaign expenditures if it accepted in-kind contributions from Swift Boat Vets. *See* 26 U.S.C. §§ 9003(b)(2) and 2 U.S.C. §§ 441a(b) and 11 C.F.R. § 104.13(a).

1 Because the Alachua County Republican Party appears to have played only a minimal  
2 role in the alleged activities, and because the only specific allegation against it concerns an  
3 apparently minor disclaimer violation on the flyer publicizing a rally, this Office recommends  
4 that the Commission exercise its discretion to take no action at this time against it.

5 **D. Allegations Regarding the Republican Party, Party Officials, and Candidates**

6 The complaint in MUR 5525 also makes allegations against the Republican Party, its  
7 officials, and candidates regarding their supposed involvement in financing Swift Boat Vets'  
8 activities. Yet these allegations are mostly speculative, and the few facts cited by the complaint  
9 likely would not constitute a violation of the Act even if true. For example, the complaint  
10 alleges that Republican candidates and party officials illegally solicited soft money for Swift  
11 Boat Vets, citing a press release by the Republican National Committee to support the allegation.  
12 This press release stated that the Commission's action on the political committee rulemaking  
13 "has given the 'green light' to all non-federal '527's' to forge full steam ahead in their efforts to  
14 affect the outcome of this year's Federal elections and, in particular, the presidential race." A  
15 general statement criticizing Commission policy, however, is not a "solicitation" of nonfederal  
16 funds under the Act and regulations and thus does not constitute a violation of the Act. *See*  
17 2 U.S.C. § 441i; 11 C.F.R. § 300.10(m).

18 Similarly, although many of the major donors to Swift Boat Vets may have also  
19 contributed to the Republican Party or may have some connection to Republican officials, these  
20 general facts—common to many other Section 527 organizations—fall short of the specific  
21 information needed to investigate whether Swift Boat Vets is affiliated with the Republican Party  
22 or with Bush-Cheney '04, as alleged. The most specific connection cited by the complaint is the  
23 possibility of a common vendor between the Republican National Committee and Swift Boat  
24 Vets, Creative Response Concepts. Although this media consultant accounted for a significant

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amount of Swift Boat Vets' disbursements, there are no reported expenditures to this company by the Republican National Committee during this election cycle.

Overall, the complaint has alleged insufficient facts to warrant an investigation into whether the Republican Party, its officials, and candidates violated the Act regarding Swift Boat Vets' activities. Nonetheless, an investigation of possible coordination between Swift Boat Vets and Bush-Cheney '04 may reveal additional information as to these other respondents.

Therefore, this Office recommends that the Commission take no action at this time against the Republican National Committee and Mike Retzner, in his official capacity as treasurer, George W. Bush, Dick Cheney, and Karl Rove.

**E. Allegations Regarding Other Respondents**

The remaining respondents include officers of Swift Boat Vets, donors to Swift Boat Vets, and one consultant to Swift Boat Vets. Consistent with the treatment of similarly situated individuals in MURs 5403, 5427, 5440, and 5466, this Office plans to gather more information before making any recommendations regarding them.

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#### IV. RECOMMENDATIONS

##### MUR 5511

1. Find reason to believe that Swift Boat Vets and POWs for Truth violated 2 U.S.C. §§ 433, 434, 441a(f), and 441b(a) by failing to register as a political committee with the Commission; by failing to report its contributions and expenditures; by knowingly accepting contributions in excess of \$5,000; and by knowingly accepting corporate and/or union contributions;
2. Approve the attached factual and legal analysis;
3.
4. Approve the appropriate letters.

##### MUR 5525

1. Find reason to believe that Swift Boat Vets and POWs for Truth violated 2 U.S.C. §§ 433, 434, 441a(f), and 441b(a) by failing to register as a political committee with the Commission; by failing to report its contributions and expenditures; by knowingly accepting contributions in excess of \$5,000; and by knowingly accepting corporate and/or union contributions;
2. Find reason to believe that Swift Boat Vets and POWs for Truth violated 2 U.S.C. §§ 441a and 434 by making and failing to report excessive contributions, in the form of coordinated expenditures, to Bush-Cheney '04;
3. Find reason to believe that Bush-Cheney '04, Inc. and David Herndon, in his official capacity as treasurer, violated 2 U.S.C. §§ 441a(f) and 434 by accepting and failing to report excessive and prohibited in-kind contributions;
4. Take no action at this time against the Alachua County Republican Party;

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5. Take no action at this time against the Republican National Committee and Mike Retzner, in his official capacity as treasurer, George W. Bush, Dick Cheney, and Karl Rove;
6. Take no action at this time against Kenneth Cordier; Harlan Crow; William Franke; Roy Hoffman; Alvin Horne; Bill Lannom; John O'Neil; Bob Perry; Charles Plumly; Weymouth Symmes; and Merrie Spaeth;
7. Approve the attached factual and legal analyses;
8. \_\_\_\_\_
9. Approve the appropriate letters.

2/4/05  
Date

Lawrence H. Norton  
Lawrence H. Norton  
General Counsel

Rhonda J. Vosdingh by LLC  
Rhonda J. Vosdingh  
Associate General Counsel for Enforcement

Mark D. Shonkwiler  
Mark D. Shonkwiler  
Assistant General Counsel

Brant S. Levine  
Brant S. Levine  
Attorney

**Attachments:**

1. Factual and Legal Analysis—Swift Boat Vets
2. Factual and Legal Analysis—Bush-Cheney '04
3. Factual Appendix

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